

Notice of Allowability

Application No.

10/829,550

Examiner

Jennine M. Brown

Applicant(s)

MCDANIEL ET AL.

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 6/23/2005.
2. ☒ The allowed claim(s) is/are 1-23.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 9/6/05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Claim Rejections - 35 USC § 112

Examiner has withdrawn the previous rejection based on applicant's arguments. The term "about" has seen accepted usage. In re Ayers 69 USPQ 109 (CCPA 1945); In re Erickson 145 USPQ 207 (CCPA 1965). However the term may be indefinite where one skilled in the art could not determine the metes and bounds of the values described within this term. Amgen Inc. v. Chugai Pharmaceutical Co. Ltd. 18 USPQ 2d 1016 (Fed. Cir. 1991). Examiner has withdrawn the previous rejection regarding the term "about" because specific beginning and end points are given in the range.

Examiner's Amendment

Authorization for this examiner's amendment was given in a telephone interview with Rodney Carroll on 9/6/2005.

The application has been amended as follows:

In claim 1, line 2, delete "conventional".

In claim 10, line 1 delete "conventional".

In claim 11, line 2, delete "with chromium and" and insert -- with a calcined chromium catalyst --.

In claim 12, line 2, delete "with chromium and" and insert -- with a calcined chromium catalyst --.

In claim 22, line 2, delete "with chromium and" and insert -- with a calcined chromium catalyst --.

Examiner has amended these claims so that no new matter has been introduced by the use of the word "conventional". Furthermore the claims have been amended to give continuity to the scope of the independent claims by modifying each to state calcined chromium catalyst.

Allowable Subject Matter

Claims 1-23 are allowed.

The following is an examiner's statement of reasons for allowance:

Applicant has amended the claims to a catalyst system comprising a calcined chromium catalyst and a non-transition metal cyclopentadienyl (Cp) compound (e.g., group 1 and 2 metals which excludes groups 3-13 transition metals). Prior art of record does not fairly teach or suggest the combination of these two specific compounds.

Shamshoum, et al. do not disclose a non-transition metal Cp compound and a calcined chromium catalyst. Newly cited prior art does not disclose the combination of applicant's claimed catalyst system nor does it give motivation to combine to obtain said system. US 3152157 discloses the preparation of a group IIIA, IIIB, VB and VIB metal cyclopentadienyl compounds via starting materials such as cyclopentadienyl lithium, it does not fairly teach or disclose either the precursor or the final product with a calcined chromium catalyst as claimed in the instant application. US 5714424 discloses transition metal Ziegler Natta catalyst systems and metallocene catalyst systems as supported on Cr/Ti/SO₂ systems but fails to disclose or suggest the combination of Cr/Ti/SO₂ with a non-transition metal cyclopentadienyl composition.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennine M. Brown whose telephone number is (571) 272-1364. The examiner can normally be reached on M-R 9:30 AM - 7:30 PM; Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jmb


J.A. LORENGO
SUPERVISORY PATENT EXAMINER